
(2008) 09 DEL CK 0235

Delhi High Court

Case No: Writ Petition (C) No. 3634 of 1992

J.K. Synthetics

APPELLANT

Vs

Central Board of Direct Taxes

RESPONDENT

Date of Decision: Sept. 17, 2008

Acts Referred:

- Income Tax Act, 1961 - Section 119(2)

Citation: (2009) 180 TAXMAN 207

Hon'ble Judges: Rajiv Shakhder, J; Badar Durrez Ahmed, J

Bench: Division Bench

Advocate: P.N. Monga and Manu Monga, for the Appellant; Prem Lata Bansal, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

1. This writ petition is directed against the decision of the Central Board of Direct Taxes conveyed to the petitioner through the letter of the Chief Commissioner of Income Tax dated 27-8-1992 which is Annexure-A to the writ petition and is at page 12 of the paper book.

2. By virtue of the said communication it is apparent that the petitioner's application seeking condonation of delay u/s 119(2)(b) of the Income Tax Act, 1961 (hereinafter referred to as the "said Act") in filing the return for the assessment year 1988-89 has been rejected. The petitioner had claimed refund of the excess TDS deducted and paid as an agent of the non-resident company--Zimmer AG, West Germany.

3. We have given several opportunities to the learned Counsel for the revenue to take instructions. However, till date no such instructions are forthcoming inasmuch as the learned Counsel for the revenue states that according to her information the assessment record stands transferred to the Assessing Officer at Kanpur. In this

eventuality, we feel that the communication dated 27-8-1992 is not backed by any speaking order. The application filed by the petitioner u/s 119(2)(6) of the said Act has been rejected summarily without any reasons being recorded for the same. On this ground alone, we set aside the order of rejection and direct that the petitioner's application u/s 119(2)(b) of the said Act is revived before the Central Board of Direct Taxes. The Board shall decide the application afresh after giving an opportunity of hearing to the petitioner. The application would thereafter be disposed of by a speaking order. Since this is an old matter, we hope that the Board shall dispose of the said application as expeditiously as possible and preferably within 8 weeks.

4. The writ petition stands allowed. No order as to costs. A copy of this order be communicated to the Central Board of Direct Taxes.